IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9849 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DAKORE TEMPLE COMMITTEE - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR AK CLERK for Petitioner(s) : 1,
MR AY KOGJE, AGP for Respondent(s) : 1, 2 and 4
MR BC RUPERA for MR RA MISHRA for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/01/2007

ORAL JUDGMENT

1. Shri A.K.Clerk, learned counsel for the petitioner, Shri A.Y.Kogje, learned AGP for the

respondents no. 1,2 and 4 and Shri B.C. Rupera, learned counsel under the authority of Shri R.A.Mishra.

2. The petitioner, being aggrieved by the notice dated 24.6.94 issued by Talati-cum-Mantri, Dakor, Taluka-Thasra and the audit remarks as contained in Annexure:G has filed this writ application. The petitioner is the Managing Committee of the temple of Dakor. From time immemorial, people had been offering cash, ornaments and land to the temple. Managing Committee is managing day to day affairs of the temple. A notice was issued to the temple committee that as they were using particular land for commercial purposes, they were required to pay Rs. 44,700.25 ps. towards revenue for the period between 1989-1990 and 1993-94. After receiving the notice, the temple committee filed its objections and submitted that the land was used for grazing cattle and raising grass. It was specific case of the petitioner that the land was not used for any commercial purpose. It appears that no inquiry into the objections

raised by the petitioner was made. It also appears that before the authorities could take any steps in the matter, the petitioner had rushed to this Court challenging the notice and the accounts entries.

3. Shri A.Y. Kogje, learned counsel for the respondent-State submits that as the petitioner is disowning his liability and is asserting that the land was not put for commercial use, the State authorities including the District Development Officer be allowed to make an inquiry into the allegations and counter allegations. He submits that if ultimately it is found that the land was being used for commercial purposes, then only notices would be pressed upon. Shri Rupera, learned counsel for the respondent no.3 also joins Shri Kogje in his statement. The statement made by Shri Kogje satisfies Shri Clerk, learned counsel for the petitioner.

4. The petition is disposed of with the following directions.

[a] The petitioner shall appear before the District Development Officer, Nadiad District Panchayat on 12th February, 2007 along with copy of this order, no further notice would be required to be given to the petitioner Managing Committee.

[b] Either on the said date or within the time extended by the District Development Officer, the petitioner may file their additional objections-cum-reply.

[c] The District Development Officer shall give proper opportunity of leading evidence to the petitioner and if occasion arises, the he may make spot inspection to ascertain that whether the land in dispute was being used for grazing cattle and raising grass or for any commercial purposes. The State authorities would also be entitled to lead evidence in support of their allegations and contentions.

[d] After giving opportunity of hearing to the parties, the District Development Officer shall decide the matter by a speaking order preferably within a period of six months from the date of

appearance of the petitioner.

At this stage, Shri Clerk, learned counsel for the petitioner submits that the petitioner has already deposited sum of Rs.20,000/- with the Talati-cum-Mantri, therefore, order in relation to the said amount be also passed.

It is hereby directed that the said amount may remain with the respondent no.2 till disposal of the inquiry. In case, it is found that the petitioner is not liable to pay enhanced amount, then, after adjusting recoveries now to be decided, balance amount shall be refunded back to the petitioner.

5. The petition is disposed of. Rule is discharged. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

pirzada/-